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8 **UNITED STATES DISTRICT COURT**
9 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
10 **SAN JOSE DIVISION**
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12 William Michael DENNIS,

13 Petitioner,

14 v.

15 Robert L. AYERS Jr., Warden of San Quentin
16 State Prison,

17 Respondent.

Case Number C 98 21027 JF

DEATH-PENALTY CASEORDER DENYING AS MOOT
MOTION TO ALLOW COUNSEL TO
WITHDRAW

[Docket No. 219]

18 Petitioner initiated the instant action in 1998 with a motion for appointment of counsel
19 and stay of execution. In 1999, the Court appointed Peter Giannini as counsel for Petitioner. In
20 2006, after a request by Mr. Giannini to appoint James S. Thomson and Saor E. Stetler as co-
21 counsel, the Court on July 17, 2006, appointed Mr. Stetler, individually, as co-counsel. In
22 response, counsel requested that the Court reconsider the appointment of solely Mr. Stetler. On
23 November 6, 2006, the Court vacated the July 17, 2006, order and appointed only Mr. Thomson
24 as co-counsel, in light of the policies of the Judicial Council of the Ninth Circuit, which generally
25 permit the appointment of only two counsel for a capital habeas petitioner. In denying the
26 request to reconsider the appointment of both Messrs. Thomson and Stetler as co-counsel, the
27 Court noted that Mr. Stetler “may serve in the role of associate counsel for James Thomson and
28 Peter Giannini.”

1 Presently before the Court is a motion to allow Mr. Stetler to withdraw as co-counsel for
2 Petitioner due to the dissolution of the law partnership of Messrs. Thomson and Stetler. The
3 request is moot as the Court indicated that Mr. Stetler “may” assist Messrs. Giannini and
4 Thomson as an associate in representing Petitioner, but was not appointed by the Court and
5 correspondingly has no obligation to do so. Only an attorney whom the Court has appointed to
6 represent a party can withdraw as counsel for that party. Not being appointed as co-counsel for
7 Petitioner, Mr. Stetler ipso facto cannot withdraw as co-counsel for Petitioner.

8 Accordingly, and good cause therefor appearing, the motion to allow Mr. Stetler to
9 withdraw as counsel for Petitioner is denied as moot.

10 *It is so ordered.*

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13 DATED: 3/29/07

14 
JEREMY FOGEL
United States District Judge

Copies of Order mailed on 3/29/07 to:

Peter Giannini, Esq.
11755 Wilshire Boulevard, 15th Floor
Los Angeles, CA 90025-1501

James S. Thomson, Esq.
819 Delaware Street
Berkeley, CA 94710

Edmund G. Brown Jr., Esq.
Robert R. Anderson, Esq.
Gerald A. Engler, Esq.
Dane R. Gillette, Esq.
Ronald S. Matthias, Esq.
Office of the Attorney General
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004

Habeas Corpus Resource Center
50 Fremont Street, Suite 1800
San Francisco, CA 94105

Federal Court Docketing
California Appellate Project
101 Second Street, Suite 600
San Francisco, CA 94105